

VZCZCXRO5725
PP RUEHCHI RUEHDT RUEHHM RUEHNH
DE RUEHBK #0818/01 0902355
ZNR UUUUU ZZH
P 312355Z MAR 09
FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC PRIORITY 6591
RUEHC/DEPT OF LABOR WASHDC PRIORITY
INFO RUEHCHI/AMCONSUL CHIANG MAI 6375
RUCNASE/ASEAN MEMBER COLLECTIVE

UNCLAS SECTION 01 OF 03 BANGKOK 000818

Department for DRL/IL MJunk, G/TIP CChan-Downer, and EAP/MLS
DRichelsoph
DOL/ILAB for Brandie Sasser

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [ELAB](#) [PHUM](#) [KTIP](#) [TH](#)
SUBJECT: Updates on Cases of Labor Abuse in Thailand

BANGKOK 00000818 001.2 OF 003

Sensitive But Unclassified. For Official Use Only.

REF A: 08 BANGKOK 2836 REF B: BANGKOK 499

¶1. (SBU) Summary: To follow-up on the Anoma, Prapha Navee, and Ranya Paew human trafficking-related labor abuse cases in Thailand (refs a and b), Embassy officials contacted a number of government and non-government officials over the past few weeks. Criminal prosecutions against suspects arrested in the Anoma and Ranya Paew case are proceeding. The investigation appears to have stalled in the Prapha Navee case, with arrest warrants issued only in the nicknames of the fishing boat captains involved and potential witnesses uninterested in testifying. Human rights lawyers have different views on whether the Prapha Navee case involved human trafficking or simply criminal negligence. End Summary.

¶2. (SBU) Comment: While the length of judicial processes in Thailand remains long, RTG officials appear to be seriously seeking criminal convictions in the Anoma and Ranya Paew cases. The investigation into the Prapha Navee case, on the other hand, seems to have stalled, with even RTG officials questioning the quality of the original investigation. Although Thai authorities are seeking criminal prosecution in this case as well, the lack of quality arrest warrants for less-than-satisfying charges is frustrating and does not give much promise that a successful prosecution is possible in the foreseeable future. We will continue to probe into the status of the Prapha Navee investigation in an effort to continue to push it forward. We note however that, given Thai evidentiary standards, and the difficulty of gathering needed evidence, a homicide conviction will be difficult. End Comment.

Anoma - Shrimp Peeling Factory

¶3. (SBU) The Public Prosecutor in Samut Sakhon province responsible for the Anoma case informed us on March 26 that pre-trial statements continue in the case, and were provided to the Court on February 5-6 and 24, and on March 11-12 and 24-26. The prosecutor plans to call for additional plaintiff and defendant statements in June and August, respectively. He estimated that, in total, approximately 14 witnesses for the plaintiff and 10 witnesses for the defense will give pre-trial statements to the Court. The Director of Baan Kredtakarn Shelter (where the Anoma case victims are being cared for) told us on March 26 that despite the Ministry of Labor (MOL)'s September 18, 2008, order that the employers provide victims with compensation, the employers have not yet done so. The Director, an official with the Ministry of Social Development and Human Security (MSDHS), noted that an attorney for the MOL interviewed victims in mid-March as part of the MOL's efforts to press criminal charges against the employers for disobeying the order. An official in the MOL's Department of Labor Protection confirmed March 31 that the Ministry will pursue criminal charges and is attempting to locate

the employer's assets in order to ask the Court to freeze them. In addition, the shelter Director stated that her staff would meet with Burmese government officials in early April to discuss the repatriation of the victims. (Note: the Prosecutor in Samut Sakhon responsible for the Anoma case reportedly will be transferred to Nontaburi province in the coming weeks and the case transferred to his replacement. End Note).

Ranya Paew - Shrimp Processing Factory

14. (SBU) On March 26 the Public Prosecutor responsible for the Ranya Paew case informed us that he is currently reviewing the case in preparation of its presentation to the Court. He stated that, based on information obtained from pretrial victim statements, he is considering filing another criminal charge for forced child labor with the goal of increasing jail time of the defendants should they be convicted. He noted that, if he files the additional charge, police investigators will need to gather additional evidence to present to the Court. As such, no trial date has yet been set.

Prapha Navee - Fleet of Fishing Vessels

15. (SBU) A human rights attorney working for a group of surviving crew members in the case informed us March 25 that the group is planning to appeal the 2007 decision by a Samut Sakhon Labor Court that seven of the plaintiffs seeking financial compensation from the fleet owner could not be included in a settlement because they could not prove their status as employees. (Note: the attorney stated he is the coordinator of a total of five human rights attorneys working with the survivors. Also, as reported in ref b, the court ordered on September 17, 2008, that 38 surviving crew members receive 3.8 million baht in back wages, with interest accrued; the decision remains under appeal. End Note).

BANGKOK 00000818 002.2 OF 003

16. (SBU) A police investigator involved in the case explained March 27 that all witnesses he interviewed stated that the deceased from the fishing vessels died from malnutrition and disease. According to information provided by the attorneys assisting the surviving crew, the fishing vessels remained at sea for several months while negotiations over the renewal of a fishing concession was on-going (the journey was originally scheduled to last thirty months). It was during this time that the crew had to live on left-over food stock without any food supplements. Gradually, crew members aboard all six vessels began to fall ill and die over the course of the journey back to Thailand (undertaken fifteen days after the first two deaths). By the time the vessels arrived back in Samut Sakhon on July 1, 2006, 39 of 128 crew members died at sea due to inadequate food and medicine.

17. (SBU) Regarding criminal charges, the police investigator provided an explanation why the investigation has been so difficult and why no one has been charged with murder. He stated that while he and other Thai police and prosecutors believe that crimes were committed by the boat captains, the evidence is thus far insufficient to support murder charges. He explained some of the reasons for the lack of evidence, such as the location of the commission of the crime, the length of time between the commission of the crime and the vessels' return to Thailand, and the lack of cooperating witnesses to explain the circumstances on the boat. He further explained that the disposal of the corpses at sea is a significant problem for the investigation, since Thai law requires presentation of a corpse or a part of a corpse to sustain a homicide charge.

18. (SBU) Other officials have echoed the requirement of a corpse for a homicide charge. At a March 25 conference on human trafficking in the fishing industry (septel), a RTG police officer from the Department of Special Investigations (DSI) informed that without a corpse or a piece of one, Thai police cannot charge murder. A prosecutor familiar with the case confirmed this on March 30, explaining that without a corpse, the court would reject murder charges for lack of evidence. A Thai lawyer who works with the Embassy further confirmed the corpse requirement on March 31. The

human rights attorney for the surviving crew members with whom we spoke also stated that police and prosecutors have told him that they cannot prosecute homicide (including death resulting from criminal negligence) without physical proof of death (i.e., a corpse). Given the limited evidence, the police investigator explained his frustration that the RTG can only pursue alternative criminal charges, namely, illegal disposal of a corpse to conceal cause of death. Because there is insufficient evidence that the boat owners, who were not present on the vessels, knew about the corpse disposal on the vessels, prosecutors have not charged the boat owners and have instead charged only the boat captains.

¶9. (SBU) In another complication, arrest warrants were issued on August 16, 2007, but only include the nicknames of four suspects, boat captains, since the police are not aware of the full, legal names of the captains. No arrests have yet been made. (Note: The use of nicknames in lieu of legal names is commonplace in Thailand. End Note). Police investigators have stated the boat owners claim to not know the real names of the captains. According to the prosecutor with whom we spoke March 30, surviving crew members also only knew the captains by their nicknames. The human rights lawyer with whom we spoke stated he provided the Office of the Attorney General in Samut Sakhon the names of the boat captains. We have not yet been able to confirm whether the Samut Sakhon prosecutors received the names in question and, if so, acted on them. We asked another prosecutor about evidentiary standards in this matter. He stated that while the provision of a name by a non-governmental official could constitute a potential lead for investigators, it may not be sufficient grounds in and of itself to seek an arrest warrant.

¶10. (SBU) The human rights attorney also told us March 26 that some survivors who received compensation from the September 2008 Labor Court ruling declined to cooperate on the pursuit of criminal charges. When asked why, he explained they appeared content with the financial settlement. He lamented that their apparent lack of interest has made it more difficult to pursue criminal charges. He noted the pursuit of criminal charges has also been made more difficult by the fact that many Burmese workers involved in the case were not legally registered. Fearing deportation, they generally were unwilling to present themselves to the Court.

¶11. (SBU) We queried the human rights attorney for the surviving crew whether, according to his knowledge, the Prapha Navee case constitutes one of human trafficking. He responded that, to the best of his knowledge, it probably is not, since the workers with whom he has spoken went to work willingly on the fishing vessels and

BANGKOK 00000818 003.2 OF 003

did not report to him (or Thai authorities) instances of physical abuse or forced labor while on board. He suggested, instead, that this is a case of grave labor exploitation and that he would like to see the boat captains prosecuted for criminal negligence for the deaths of members of the crew. When asked the same question March 30, the prosecutor with whom we spoke also stated that he was not aware of allegations of forced labor on the vessels, although he had not yet read transcripts of the witness testimony. He also stated that in his opinion, the original police investigation appeared to have not been conducted well, either out of poor (if well intentioned) handling or out of an effort to inappropriately shield individuals from prosecution. We consulted a second human rights lawyer familiar with the Prapha Navee case on March 31. He stated that, according to his knowledge of victim testimony, some of the crew joined the fishing fleet under the belief that the voyage would last only a few months and unaware that they would travel to fish in Indonesian waters. Due to this fact, he considers Prapha Navee a case of human trafficking.